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**VIA HAND DELIVERY**

July 2, 2001

Scott D. Fairholm, Agency Director,  
J. B. Edmonds, Deputy Director and  
John J. Tachley, Procurement Officer  
Acquisition Services Division  
Department of Information Technology  
Commonwealth of Virginia  
110 S. 7th Street  
Richmond, Virginia 23219-3900

**Re: Protest by GTSI Corp. of proposed awards under Invitation For Bid #2001-04**

Dear Messrs. Fairholm, Edmonds and Tachley:

Pursuant to Section 11-66 of the Code of Virginia, GTSI Corp. ("GTSI"), 3901 Stonecroft Boulevard, Chantilly, Virginia, telephone (703) 502-2645, fax (703) 222-5217, hereby files this protest of the decision of the Department of Information Technology ("Government"), to award the contracts listed in Exhibit 1 (the "Protested Contracts") pursuant to Invitation for Bid #2001-04, as amended ("IFB").

**I.  
Timeliness**

In accordance with Section 11-66 of the Code of Virginia, this protest is timely filed within 10 days of public notice of the decision to award. The Government placed the notice of intended awards under the IFB on its Web site on June 22, 2001. This protest is timely filed on the tenth calendar day following such notice.

## **II.**

### **Interested Party**

In accordance with Section 11-66 of the Code of Virginia, GTSI is an interested party entitled to maintain this protest. GTSI was an actual bidder whose direct economic interest would be affected by the Government's decision to award or not to award contracts under the IFB.

## **III.**

### **Suspension of Award and/or Contract Performance**

This protest is timely filed under Section 11-66 of the Code of Virginia. As such, pursuant to Section 11-68 of the Code of Virginia, the Government is not allowed to take any action to award contracts under the IFB until after resolution of this protest.

## **IV.**

### **Relevant Background**

The Government issued Invitation for Bid #2001-04 on March 28, 2001. The IFB solicits bids for "printers and related equipment/products, supplies and services." The procurement was to be conducted through the use of sealed bids, as authorized by Section 11.41 of the Code of Virginia.

Section 3.8 of the IFB states that "[b]ids shall be evaluated and the responsive and responsible bidder(s) offering the lowest price will be awarded a Contract." Section 2.2.2 sets forth the method for determining the lowest price. Section 2.2.2 provides that evaluation of the bidders prices will be based on comparison of an Evaluated Cost Average ("ECA")<sup>1</sup> by printer category.

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<sup>1</sup> The IFB defines Evaluated Cost as the printer purchase price offered by the bidder, plus the cost of 5,000 pages of supplies (assuming 5% coverage per page for laser, 100 characters per page for impact and inkjet printers (5% of 2,000 characters per page)). The ECA is the average of the EC(s) for a particular bidder in a particular printer category.

Section 2.1 sets forth the 9 general categories of printers to be procured. Included within the 9 general categories are 31 subcategories. See Exhibit 2. Section 2.1 also lists general requirements that must be met by printers offered under the IFB. The general requirements include a statement that “[a]ll print speeds indicated [in the RFP] are for ‘Best Quality, or NLQ, or Highest rated dpi<sup>2</sup>’ [per] min[ute].”

Section 1.1 indicates the Government’s intention that individual awards per printer [sub] category shall be separate and distinct brand families, in order to offer the [Government] the broadest possible choice of printer brands.

Bids were due by 2:00 pm on May 22, 2001. Opening of the Bids occurred at or about 2:10 pm on May 22, 2001. On June 22, 2001, the Government placed on its Web site a notice of intent to award contracts under the IFB and listed the intended awardees.

Prince Anand, GTSI’s State and Local Sales Manager, contacted the customer service representatives of various printer manufacturers to which the Government intends to award contracts. Mr. Anand questioned the customer services representatives regarding the capabilities and functions of their products. All answers regarding page per minute ratings indicated that such ratings were not at the printers best dpi and that the page per minute rating would decrease at the printers best dpi. See Exhibit 31.

## V.

### **Grounds of Protest**

- A. The Government intends to award contracts for printers that do not comply with the minimum requirements of the IFB and are therefore non-responsive and not eligible for award.**

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<sup>2</sup> “dpi” stands for dots per inch.

The procurement at hand is for 31 separate subcategories of printers. Each subcategory contains a distinct set of requirements, as well as being subject to the general requirements set forth in Section 2.1 of the IFB. Printers that do not meet all of the distinct set of requirements in the particular subcategory in which they are being offered and that do not meet the general requirements applicable to that subcategory are non-responsive under the IFB and are not eligible for award.

Section 3.8 of the Commonwealth of Virginia's Vendors Manual defines a responsive bidder as a bidder that "has submitted a bid which conforms in all material respect to the Invitation for Bids. Examples of non-responsiveness include . . . failure to offer a product or service that meets the requirement of the Invitation of Bids."

**1. The Government intends to award contracts for printers that do not comply with the minimum page per minute requirement of the IFB and are therefore non-responsive and not eligible for award.**

Twenty of the 31 subcategories of the IFB require printers to print a minimum number of pages per minute at their "Best Quality, or NLQ, or Highest rated dpi." The phrase "Best Quality, or NLQ, or Highest rated dpi" is understood throughout the IT industry as indicating the highest print quality available for the given type of printer (i.e. laser, dot matrix, inkjet).

Manufacturers often list the page per minute capabilities of their printers in terms of maximums (i.e. "up to 10 ppm" or "10 ppm"). It is understood throughout the IT industry, and is dictated by logic, that the maximum number of pages per minute of a printer is at its

lowest available print quality and that printing at the highest print quality will produce fewer pages per minute.<sup>3</sup>

In 40% (8 of the 20) subcategories that have a minimum page per minute requirement, the Government incorrectly intends to award contracts for printers that do not meet the minimum page per minute requirement in their respective subcategories.

**a. Under subcategory C.2.a the Government intends to award contracts for 6 printers that do not meet the minimum page per minute requirement of the subsection.**

Subcategory C.2.a is for desktop color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 x 600 dpi, print pages in size not to exceed 8.5" x 14", print a minimum of 6 pages per minute in black and a minimum of 2 pages per minute in color.

In this subcategory, the Government intends to make three awards. The first is to DISYS for the Canon S400. The second award is to Lexmark International, Inc. ("Lexmark") for the Lexmark Z22, the Lexmark Z32, the Lexmark Z43 and the Lexmark Z53<sup>4</sup>. The third award is to DISYS for the Epson 777. None of the intended awardees in this subcategory meet the required minimum pages per minute.

1. Based upon information and belief, the Canon S400 does not meet the required 6 pages per minute in black and does not meet the 2 pages per minute in color. Although the manufacturer claims a print speed of up to 6

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<sup>3</sup> If the Government does not agree with and apply, for purposes of this protest, the concept that the maximum number of pages per minute of a printer listed by a manufacturer is at its lowest available print quality and that printing at the highest print quality will produce fewer pages per minute, and/or the Government determines one or more of the printers protested under Article V, Section A.1. of the protest to be responsive, then GTSI protests, in the alternative, those printers that exceed the maximum ppm or copies per minute specifications of the IFB. These include, but are not limited to, the Xerox 750N under subcategory F.1, the Xerox XK50cx under subcategory H.1.b, and the Lexmark T610SX and T614DX under subcategory H.2.b. See Exhibit 3.

pages per minute in black and up to 4 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than the required pages per minute. See Exhibit 4.

2. Based upon information and belief, the Lexmark Z53 does not meet the required 6 pages per minute in black and does not meet the 2 pages per minute in color. Although the manufacturer claims a print speed of up to 16 pages per minute in black and up to 8 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just under 3.6 pages per minute. See Exhibit 5. Each of the four printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

3. Based upon information and belief, the Epson 777 does not meet the required 6 pages per minute in black and does not meet the 2 pages per minute in color. Although the manufacturer claims a print speed of up to 8 pages per minute in black and up to 6 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just over 1 page per minute. See Exhibit 6.

**b. Under subcategory C.2.b the Government intends to award contracts for 2 printers that do not meet the minimum page per minute requirement of the subsection.**

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<sup>4</sup> Lexmark submitted a bid that contained four printers for subcategory C.2.a.

Subcategory C.2.b is for desktop color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 400 x 1200 dpi, print pages in size not to exceed 8.5" x 14", print a minimum of 11 pages per minute in black and a minimum of 8.5 pages per minute in color.

In this subcategory, the Government intends to make two awards. The first is to DISYS for the Canon S600. The second award is to Lexmark for the Lexmark Z22, the Lexmark J110. None of the intended awardees in this subcategory meet the required minimum pages per minute.

1. Based upon information and belief, the Canon 600 does not meet the required 11 pages per minute in black and does not meet the 8.5 pages per minute in color. Although the manufacturer claims a print speed of up to 15 pages per minute in black and up to 10 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just 1.46 pages per minute. See Exhibit 7.

2. Based upon information and belief, the Lexmark J110 does not meet the required 11 pages per minute in black and does not meet the 8.5 pages per minute in color. Although the manufacturer claims a print speed of up to 16 pages per minute in black and up to 14 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just 7.6 pages per minute. See Exhibit 8.

**c. Under subcategory C.3.a the Government intends to award a contract for 1 printer that does not meet the minimum page per minute requirement of the subsection.**

Subcategory C.3.a is for workgroup color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages 8.5” x 14” in size, print a minimum of 5 pages per minute in black and a minimum of 1 page per minute in color.

In this subcategory, the Government intends to make two awards. The award to DISYS for the Epson Stylus 880 does not meet the required minimum pages per minute.

1. Based upon information and belief, the Epson Stylus Color 880 does not meet the required 5 pages per minute in black and does not meet the 1 page per minute in color. Although the manufacturer claims a print speed of up to 12 pages per minute in black and up to 9 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer’s speed is just .87 pages per minute. See Exhibit 9.

**d. Under subcategory E.1.a the Government intends to award contracts for 3 printers that does not meet the minimum/maximum page per minute requirements of the subsection.**

Subcategory E.1.a is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 600 dpi, print pages in size from 3” x 5” up to 11” x 14” and print exactly<sup>5</sup> 8 pages per minute in black.

In this subcategory, the Government intends to make three awards. The first is to DISYS for the Okidata 8Z. The second award is to Minolta-QMS, Inc. (“Minolta”) for the Minolta 1100. The third award is to Logicom Systems, Inc. (“Logicom”) for the Xerox

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<sup>5</sup> The requirement states “8 pages ppm min, up to 8 ppm.” Therefore the printers cannot print less than 8 pages without being non-responsive to the 8 ppm minimum and cannot print more than 8 ppm without being non-responsive to the “not to exceed” requirement of 8 ppm.



P8ex. None of the intended awardees in this subcategory meet the required minimum/maximum pages per minute.

1. Based upon information and belief, the Okidata 8Z does not meet the required minimum/maximum 8 pages per minute speed. Although the manufacturer claims a print speed of up to 8 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 4 pages per minute. See Exhibit 10.

2. Based upon information and belief, the Minolta 1100 does not meet the required minimum/maximum 8 pages per minute speed. The manufacturer claims a print speed of up to 10 pages per minute. The 10 pages per minute claimed by the manufacturer exceed the maximum number of pages per minute of 8 allowed under the subsection.<sup>6</sup> See Exhibit 11.

3. Based upon information and belief, the Xerox P8EX does not meet the required minimum/maximum 8 pages per minute speed. The manufacturer claims a print speed of up to 8 pages per minute. Although the manufacturer claims a print speed of up to 8 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 8 pages per minute. See Exhibit 12.

**e. Under subcategory E.1.b the Government intends to award a contract for 1 printer that does not meet the minimum/maximum page per minute requirements of the subsection.**

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<sup>6</sup> GTSI was unable to collect any information regarding this product, beyond what was found on Minolta's Web site. The 10 ppm claimed are almost assuredly not at the 600 dpi required by the IFB, but at some lower dpi.

Subcategory E.1.b is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 3" x 5" up to 11" x 14", print over 8 pages per minute and not over 20 pages per minute in black.

In this subcategory, the Government intends to make three awards. The award to Logicom for the Xerox P1210 does not meet the required minimum pages per minute.

1. Based upon information and belief, the Xerox P1210 does not meet the required minimum of over 8 pages per minute speed. Although the manufacturer claims a print speed of up to 12 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is 7.6 pages per minute. See Exhibit 13.

**f. Under subcategory E.2.a the Government intends to award contracts for 4 printers that do not meet the minimum page per minute requirement of the subsection.**

Subcategory E.2.a is for workgroup mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 8.5" x 11" up to 11" x 14", print a minimum of 10 pages per minute and maximum of 20 pages per minute.

In this subcategory, the Government intends to make three awards. The first is to Brother for the Brother HL1650. The second award is to Lexmark for the Lexmark M410N, M412N and T610N. The third award is to Unisys for the UDS15N-N11. The bids offered by Brother and Lexmark in this subcategory do not meet the required minimum pages per minute.

1. Based upon information and belief, the Brother HL 1650 does not meet the required 10 pages per minute. Although the manufacturer claims a print speed of up to 16 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just under 7.5 pages per minute. See Exhibit 14.

2. Based upon information and belief, the Lexmark T610N does not meet the required 10 pages per minute. Although the manufacturer claims a print speed of up to 15 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just under 4.7 pages per minute. See Exhibit 15. Each of the three printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

**g. Under subcategory E.2.b the Government intends to award a contract for 1 printer that does not meet the minimum page per minute requirements of the subsection.**

Subcategory E.2.b is for workgroup mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 8.5" x 11" up to 11" x 14", print over 20 pages per minute and not over 30 pages per minute in black.

In this subcategory, the Government intends to make three awards. The award to Brother for the Brother HL-2460 does not meet the required minimum pages per minute.

1. Based upon information and belief, the Brother HL-2460 does not meet the required minimum of over 20 pages per minute speed. Although the manufacturer claims a print speed of up to 25 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 20 pages per minute. See Exhibit 16.

**h. Under subcategory E.2.c the Government intends to award a contract for 3 printers that do not meet the minimum/maximum page per minute requirements of the subsection.**

Subcategory E.2.c is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 3" x 5" up to 11" x 17", print over 30 pages per minute and not over 50 pages per minute in black.

In this subcategory, the Government intends to make three awards, which includes an award to Lexmark for its bid of the Lexmark T616N, W810N and W810DN. The award to Lexmark does not meet the required minimum pages per minute.

1. Based upon information and belief, the Lexmark T616N does not meet the required 30 pages per minute. Although the manufacturer claims a print speed of up to 35 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 30 pages per minute. See Exhibit 17. Each of the three printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

**2. The Government intends to award contracts for printers that do not meet the minimum dpi requirements of the IFB and are therefore non-responsive and not eligible for award.**

**a. Under subcategory C.3.a the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.**

Subcategory C.3.a is for workgroup color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages 8.5" x 14" in size, print a minimum of 5 pages per minute in black and a minimum of 1 page per minute in color.

In this subcategory, the Government intends to make two awards. The award to Lexmark for the Lexmark 45N does not meet the required minimum dpi of the subsection.

1. Based upon information and belief, the Lexmark 45N does not meet the required 1200 dpi. The manufacturers specifications for the printer indicate the printer's maximum resolution as 600 dpi x 600 dpi. See Exhibit 18.

**b. Under subcategory E.1.b the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.**

Subcategory E.1.b is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 3" x 5" up to 11" x 14", print over 8 pages per minute and not over 20 pages per minute in black.

In this subcategory, the Government intends to make three awards. The award to Starprint for the IBM 4912001 does not meet the required minimum dpi of the subsection.

1. Based upon information and belief, the IBM 4912001 does not meet the required 1200 dpi. The manufacturers specifications for this printer indicate “up to 1200 x 1200 dpi print quality.” GTSI spoke with an IBM customer service representative regarding this model and the use of the qualifying phrase “print quality.” The IBM customer service representative informed GTSI that the printer does not print 1200 dpi, but that the print quality makes it look as if it is 1200 dpi. Therefore, the printer does not meet the required 1200 dpi requirement. See Exhibit 19.

**c. Under subcategory E.2.a the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.**

Subcategory E.2.a is for workgroup mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 8.5” x 11” up to 11” x 14”, print a minimum of 10 pages per minute and maximum of 20 pages per minute.

In this subcategory, the Government intends to make three awards. The award to Lexmark for the Lexmark M410N, M412N and T610N does not meet the required minimum dpi of the subsection.

1. Based upon information and belief, the Lexmark M410N does not meet the required 1200 dpi. The manufacturers specifications for the printer indicate the printer’s maximum resolution as 600 dpi x 600 dpi See Exhibit 20. Each of the three printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers

offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

**d. Under subcategory H.1.a the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.**

Subcategory H.1.a is for desktop multifunction color inkjet printers with the capability to print, copy and scan. The distinct requirements of the subcategory require the printers to scan at 9600 dpi.

In this subcategory, the Government intends to make two awards. The award to Logicom for the Xerox 940 does not meet the required minimum scan dpi of the subsection.

1. Based upon information and belief, the Xerox 940 does not meet the required 9600 dpi. The manufacturers specifications for the printer indicate the printer's maximum scan resolution as 600 dpi x 600 dpi See Exhibit 21.

**3. The Government intends to award contracts for printers that are not the type required by their respective subcategory and are therefore non-responsive and not eligible for award.**

**a. Under subcategory E.1.a the Government intends to award a contract for a printer that is not a laser printer.**

Subcategory E.1.a is for desktop mono laser printers. In this subcategory, the Government intends to make three awards. The award to DISYS for the Okidata 8Z does not meet the requirement that the printer be laser printer.

1. Based upon information and belief, the Okidata 8Z is not a laser printer. GTSI spoke with an Okidata customer service representative regarding this model.

The Okidata customer service representative state the model is not a laser printer, but uses a light emitting diode in printing. See Exhibit 10.

**b. Under subcategory H.2.b the Government intends to award a contract for a printer that does not possess all of the multifunctional capabilities required by the subcategory.**

Subcategory H.2.b is for multifunctional workgroup printers that can print, copy and scan. In this subcategory, the Government intends to make three awards. The award to Océ USA, Inc. for the Océ 6485 does not meet the requirement that the printer possess copying and scanning capabilities.

1. Based upon information and belief, the Océ 6485 does not possess the ability to copy or scan. See Exhibit 22.

**c. Under subcategory I.1.a the Government intends to award a contract for a printer that does not possess the color printing capability required by the subcategory.**

Subcategory I.1.a is for 24" workgroup plotters/large format color inkjet printers. In this subcategory, the Government intends to make one award to DISYS for the Hewlett Packard ("HP") 430. The HP 430 does not meet the color requirement of the subsection.

1. Based upon information and belief, the HP 430 does not possess the ability to print in color. As indicated in HP's specifications, the printer is a black-only printer. See Exhibit 23. HP does make a 24" large format printer; it is the model GTSI bid – the HP 500. See Exhibit 24.



**d. Under subcategory I.1.b the Government intends to award a contract for a printer that does not possess the color printing capability required by the subcategory.**

Subcategory I.1.b is for 36" workgroup plotters/large format color inkjet printers. In this subcategory, the Government intends to make one award to DISYS for the Hewlett Packard ("HP") 430. The HP 430 does not meet the color requirement of the subsection.

1. Based upon information and belief, the HP 430 does not possess the ability to print in color. As indicated in HP's specifications, the printer does not print color. See Exhibit 25.

**4. The Government intends to award contracts for printers that do not meet the minimum or maximum size specifications for labels or paper and are therefore non-responsive and not eligible for award.**

**a. Under subcategory D.2 the Government intends to award a contract for a printer that exceeds the maximum size specification for labels under the subsection.**

Subcategory D.2 is for desktop label printers. The distinct requirement of the subcategory sets a not to exceed label size of 2.25".

In this subcategory, the Government intends to make two awards. The award to Starprint for the IBM 4400-004, 4400-006 and 4400-008 does not meet the required maximum label size of the subsection.

1. Based upon information and belief, the IBM 4400-004, 4400-006 and 4400-008 does not meet the not to exceed label size of 2.25". The manufacturers specifications for the printer indicate the printer's maximum label size is 8". See Exhibit 26.

- a. **Under subcategory E.1.b the Government intends to award a contract for a printer that does not meet the minimum size specification for paper under the subsection.**

Subcategory E.1.b is for desktop laser printers. The distinct requirement of the subcategory sets a minimum page size of 3" x 5".

In this subcategory, the Government intends to make three awards. The award to Logicom for the Xerox/Tektronix P1210 does not meet the required maximum paper size of the subsection.

1. Based upon information and belief, the Xerox/Tektronix P1210 does not meet the minimum paper size of 3" x 5". The manufacturers specifications for the printer indicate the printer's minimum paper size is 3.1" x 5.8". See Exhibit 13.

**5. The Government intends to award contracts for printers that were discontinued by the manufacturer prior to the bid submission date and are therefore non-responsive and not eligible for award.**

a. Under subcategory E.1.b the Government intends to award a contract to Starprint for the IBM 4912-001 printer. Based upon information and belief, the IBM 4912-001 printer was discontinued in late April 2001. GTSI spoke with an IBM customer service representative regarding this model. The IBM customer service representative indicated that the model was discontinued in late April 2001.

b. Under E.2.c the Government intends to award a contract to DISYS for the HP LJ 8100 printer. Based upon information and belief, the HP LJ 8100 printer was discontinued in April 2001. GTSI spoke with an HP representative regarding this model. The HP representative indicated that the model was discontinued in April 2001.

**B. The Government intends to award contracts in the same subcategory for printers that are part of the same brand family.**

The IFB requires that within a subcategory, each award be a separate and distinct brand family. This requirement is intended to provide the Government with the broadest possible choice of printer brands. Unfortunately, due to the re-branding of printers, some of the awards by the Government are in violation of the IFB terms and will actually limit the Government's printer choices.

Moreover, it is clear from the awards to DISYS and Lexmark in subcategory C.2.a, the issue is not awarding more than one contract to a single company in the same category. In subcategory C.2.a, DISYS received two awards, one for a Canon printer and the other for an Epson printer. This was allowed because they are two separate models of printers. However, where the printers are the same (same model of printer, but merely re-branded) awards are not allowed under the IFB for both printers, even if offered by two different companies.

1. Under subcategory E.2.b the Government intends to award contracts to Alliance Micro for the Xerox N2125N, as well as an award to Peripheral Company, Inc. for the Genicom ML210N, LN21N, ML280N and LN28N. Based upon information and belief, the Genicom ML210N is manufactured by Xerox and is the same model and has the same features as the Xerox N2125N. As such, the award to Peripheral Company, Inc. violates the restriction on awarding to the same printer family within a subcategory and is not eligible for award. See Exhibit 27. Each of the printers offered by Peripheral Company, Inc. in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Peripheral Company,

Inc. is non-responsive, the entire bid by Peripheral Company, Inc. for this subcategory is non-responsive.

2. Under subcategory E.2.a the Government intends to award contracts to Lexmark for the Lexmark M410N, M412N and T610N, as well as an award to Unisys for the Unisys UDS15N-N11. Based upon information and belief, the Unisys UDS15N-N11 is manufactured by Lexmark and is the same model and has the same features as the printers bid by Lexmark for this subcategory. As such, the award to Unisys violates the restriction on awarding to the same printer family within a subcategory and is not eligible for award.

3. Under subcategory E.2.c the Government intends to award contracts to Unisys for the UDS35-N11 and UDS35-WDN, as well as Lexmark for the Lexmark T616N, W810N and W810DN. Based upon information and belief, the Unisys UDS35-N11 and UDS35-WDN are manufactured by Lexmark and are the same models and have the same features as the printers bid by Lexmark for this subcategory. As such, the award to Lexmark violates the restriction on awarding to the same printer family within a subcategory and is not eligible for award.

**C. The Government's intended award to DISYS under subcategory E.1.b for the HP LJ1200 is arbitrary and capricious.**

The goal of the Virginia legislature in enacting the Virginia Public Procurement Act, which is codified in the Code of Virginia, was to ensure that the "Commonwealth obtain quality goods and services at a reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and

that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree . . .” BIT Processing, Inc. v. The Information Technology Procurement Appeals Board, 1994 WL 1031217 (Va. Cir. Ct., 1994); San Jose Construction Group, Inc. v. Loudoun County School Board, 1998 WL 957328 (Va. Cir. Ct., 1998). Black’s Law Dictionary defines “arbitrary and capricious” as characterized as a decision or action . . . without consideration or in disregard of facts or law or without determining principle.” Black’s Law Dictionary 105 (6<sup>th</sup> ed. 1991).

Under subcategory E.1.b., the Government intends to award a contract to DISYS for the HP LJ1200 printer. GTSI also bid the HP LJ1200 under E.1.b. The purchase price for the HP LJ1200 bid by DISYS is \$371. GTSI bid the same printer at the lower price of \$353 or \$18 less than DISYS. DISYS submitted an average cost per page of \$0.02. For the same printer, GTSI submitted an average cost per page of \$0.0356. Because of the difference in the average cost per page between GTSI and DISYS, DISYS’ evaluated price is \$471 and GTSI’s evaluated price is \$531; a difference of \$62. However, because the printers offered are the same exact printer, the HP LJ1200, the average cost per page will be the same no matter who supplies the printer.

In this case, since the same printers were bid with different cost per page pricing and that pricing was the determining factor in the award, to avoid an arbitrary and capricious decision the Government had an affirmative duty to inquire as to the difference in the average cost per page submitted by GTSI and DISYS. As noted in the letter from HP, See Exhibit 28. HP worked exclusively with GTSI in connection with this IFB. The average cost per page bid by GTSI is the exact number provided to GTSI

by HP, the manufacturer of the HP LJ1200. Given that GTSI's cost per page is directly from the manufacturer, the cost submitted by DISYS must be incorrect and the award should be made to GTSI.

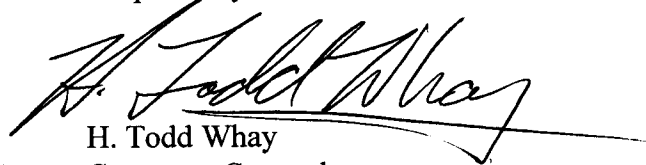
**VI.**  
**Request for Relief**

Because a majority of the printers for which the Government intends to award contracts are not eligible for award, the procurement process appears to have been flawed. As such, GTSI requests the Government sustain this protest and declare:

1. the intended awards protested herein are in violation of applicable law, regulations and the terms of the IFB and are not available for award; and
2. this IFB, and the intended awards there under, are canceled; and
3. that the Government will issue a new invitation for bid to fulfill the Government's printer needs.

In the event the Government denies this protest, in whole or part, GTSI requests that the Government refrain from awarding any contracts under the IFB until the time provided by statute for GTSI to appeal has expired. If the Government decides to issue awards prior to the expiration of the time provided by statute for GTSI to appeal, GTSI requests the Government provide GTSI with three business days notice prior to such awards, so that GTSI may seek appropriate court orders restraining such awards.

Respectfully submitted,

  
H. Todd Whay  
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GTSI Corp.